

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America

v.

Blake Robert Johnston,

Defendant(s)

Case No.

4-14-71320

OAKLAND VENUE

FILED

OCT 16 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Oct. 6 through Oct. 14, 2014 in the county of Contra Costa County in the
Northern District of California, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 2423(b)

Travelling with Intent to Engage in Illicit Sexual Conduct

PENALTIES:

- (1) Imprisonment: Maximum 30 Years.
- (2) Fine: \$250,000
- (3) Supervised release: Maximum 5-year Term
- (4) Special assessment: \$100.00
- (5) Forfeiture and Restitution

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

APPROVED AS TO FORM:

Christina McCall
AUSA CHRISTINA MCCALLLesley H. Brown

Complainant's signature

Lesley H. Brown, HSI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/16/14Kandis Westmore

Judge's signature

City and state: Oakland, CA

Kandis A. Westmore, U.S. Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Lesley H. Brown, do swear and affirm as follows:

I. INTRODUCTION AND PURPOSE FOR AFFIDAVIT

1. This affidavit is made in support of a criminal complaint against Blake Robert JOHNSTON for Travel with Intent to Engage in Illicit Sexual Conduct, in violation of 18 U.S.C. § 2423(b). The statements contained in this affidavit are based on my experience and training as a Special Agent and the information provided to me by other law enforcement officers. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that JOHNSTON violated Title 18, United States Code § 2423(b)

II. AGENT BACKGROUND

2. I am a Special Agent (SA) with HSI assigned to the Special Agent in Charge, San Francisco, California. I have been employed by HSI (including the former U.S. Immigration and Naturalization Service) since June 3rd, 1991 and am currently assigned to the Cyber Crimes Group. As part of my daily duties as an HSI Special Agent with the Cyber Crimes Group, I am authorized to investigate violations of federal law, and to execute warrants issued under the authority of the United States. In this capacity, I investigate criminal violations relating to child exploitation including violations pertaining to the travelling in interstate commerce to engage in illicit sexual acts in violation of 18 U.S.C. §§ 2243(a), 2243(b) and 2422(b). I have received training in the area of child pornography and child exploitation investigations, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in many forms

of media, including computer media. I hold two Bachelor's degrees from the University of California, Santa Barbara, and I have been a sworn federal law enforcement officer since 1991.

III. APPLICABLE LAW

3. Under Title 18, United States Code, Section 2423(b), it is a crime for any person to travel in interstate commerce for the purpose of engaging in any illicit sexual conduct with another person.

4. 18 United States Code, Section 2423(f) provides: the term "sexually explicit conduct" means (1) a sexual act (as defined in Section 2246) with a person under 18 years of age that would be a violation if the sexual act occurred in the special maritime and territorial jurisdiction of the United States....

5. As set forth in 18 United States Code, Section 2246, the term "sexual act" means—

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person....

6. 18 United States Code Section 2243 provides: Whoever in the special maritime and territorial jurisdiction of the United States... knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years;
and

(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

IV. FACTS ESTABLISHING PROBABLE CAUSE

7. On October 14, 2014, I was contacted by Detective Sergeant Mathers from Martinez Police Department regarding Blake Robert JOHNSTON who was currently in their custody. Detective Mathers reported they had received a phone call from Salem, Oregon Police Department regarding a 14 year old missing female ("Victim"). Victim's mother had reported her missing after finding a note stating that "Life was un-liveable" and her roller blades near a bridge walkway. The Victim's mother gave Salem Police written consent to download all the contents from the Victim's phone and computer. Salem Police conducted a forensic review of the Victim's cellular phone and computer.

8. The data collected from the forensic review of the Victim's cell phone revealed a series of deleted text messages between the Victim and an unknown person/number on October 6, 2014 regarding having sexual contact on the Victim's lunch break (from school). Those text messages were graphic, with the Victim writing, "Omg you had pre cum soaking through your pants it tasted so good" and "I almost came when you put your hand around my throat." In the deleted text messages from October 6, the Victim described the person she was communicating with as "daddy". Detective Vasas also found a separate series of text messages from Victim's phone from the participant's number: 925-497-9740. During these other text messages, the Victim also addresses the person with that number as "daddy."

9. Detective Vasas (Salem, OR Police Department) researched 925-497-9740 on multiple internet websites and found the number belonged to Blake Robert JOHNSTON. There were two addresses associated with JOHNSTON: one in Pleasant Hill and one in Martinez, on Fountainhead Court. Local officers first went to the Pleasant Hill address to check on the missing juvenile's welfare, but the occupant of that residence advised that JOHNSTON lives at the address on Fountainhead Court in Martinez. The Pleasant Hill occupant also stated that JOHNSTON would not be home because he went to Oregon to visit his "girlfriend," and had traveled to Oregon to visit his girlfriend a couple of weeks ago.

10. Detective Vasas contacted the Contra Costa County Sheriff's Office and requested a photo of JOHNSTON. The forensic download of the Victim's computer revealed two videos with an adult male having intercourse with two different females. In one of the videos, the female appears to be under the age of 18 years old. Detective Vasas advised under comparison of the Sheriff's Office photo and the male in the video, the male in the video appeared to be JOHNSTON.

11. On October 14, 2014, close to midnight, Detective Vasas received the Victim's cell phone call records from her mother, who contacted the cellular provider - Verizon- and had Verizon email the Victim's recent phone records. The list showed calls made from the Victim's cell phone to JOHNSTON's phone (925-947-9740). From October 3, 2014 through October 13, 2014, thirty three (33) phone calls were made from the Victim's cellphone to 925-947-9740 and one (1) incoming call was received from 925-947-9740. Detective Vasas compared the incoming and outgoing calls from the messages taken off of the Victim's phone on October 6, 2014, which was the date the Victim and the

other communicator described having sex during her lunch break. The messages were sent from the phone number 925-947-9740, which is JOHNSTON's cell phone.

12. Based on this information, Detective Vasas (Salem OR Police Detective) authored an extraditable arrest warrant for JOHNSTON for "sex offense-against child-fondling-luring" dated October 14, 2014. On October 14, 2014 at 2334 hours, Detective Vasas requested the Martinez Police Department to attempt contact with JOHNSTON at his residence located on Fountainhead Court in Martinez, and attempt to locate the Victim.

13. On October 14, 2014, shortly before midnight, Martinez Police Officers responded to the address on Fountainhead Court in Martinez, and attempted to contact JOHNSTON. After knocking several times, a juvenile girl answered the door. Officers asked the juvenile if Blake JOHNSON lived at the location. The juvenile advised that was her father and he was in his bedroom with his girlfriend and invited the officers into the residence. Officers walked toward the open bedroom door and located JOHNSTON sitting on his bed in his underwear and a shirt. In the bed next to JOHNSTON, officers located the Victim under the covers. She was wearing a long shirt and no underwear. A pair of women's panties was seen inside the covers on the bedding.

14. Based on the arrest warrant from Salem Oregon, officers arrested JOHNSTON and transported him to the Martinez Police Department. Officers froze the scene and contacted Detective Baille and Detective Sergeant Mathers.

15. Martinez Police Detective Baille was assigned the case to investigate. He learned through an interview of the Victim that Victim and JOHNSTON had talked once

on Omegle¹ and after that had communicated on Kik (Messenger)². The Victim said that JOHNSTON told her he was 41 years old, and she told him she was 14 years old, and the Victim said that she had been communicating with JOHNSTON for some time. The Victim stated that she had first met JOHNSTON in person one week ago. The victim said that JOHNSTON had flown to Salem, Oregon on October 6, 2014. The Victim told Detective Baille that JOHNSTON rented a car and drove to her school. During the Victim's lunch break, she sat in the vehicle with JOHNSTON and they talked. The Victim stated that during the lunch break, JOHNSTON touched her breasts over her clothes. JOHNSTON left the school and returned to the school when classes were over. The Victim stated she met JOHNSTON in the same location on the school grounds in the rental vehicle. The Victim copulated JOHNSTON orally inside the vehicle at that time. JOHNSTON touched her breasts and vagina over her clothes at that time. The Victim told Detective Baille during the course of electronic communications between her and JOHNSTON, she received several photos of "his dick" on her cell phone. The Victim also admitted to sending JOHNSTON photos of her which included her breasts. Detective Baille was told by the Victim that JOHNSTON and his juvenile daughter drove to Salem Oregon on October 14, 2014, picked her up, then drove to his address on Fountainhead Court in Martinez. Her intention at that time was to live with JOHNSTON.

16. Detectives Baille and Espinoza interviewed JOHNSTON. The interview was audio and video recorded. JOHNSTON was advised of his Miranda Rights and

¹ Omegle is a free online chat website that allows users to communicate with strangers without registering. The service randomly pairs users in one-on-one chat sessions where they chat anonymously using the handles "You" and "Stranger". The site now provides a mobile application that lets users chat with strangers from mobile devices.

² Kik is a cross-platform smartphone instant messenger that allows users to have text-based conversations with one another, in addition to sharing rich media like photos, YouTube videos, and other forms of content. Kik is free to download and free to use with a WiFi connection. It requires a smartphone with either a data plan or access to a Wi-Fi network. Emulators can be used on desktop and laptop computers to allow KIK to be used on these devices.

acknowledged understanding these rights. JOHNSTON was asked if he knew why he was with the police and he responded "Because I had a girl with me who was from another State who was underage." JOHNSTON then made the following statement.

JOHNSTON stated they met online on a chat site but couldn't remember the particular site. He stated they told each other their true ages right away- he believes her to be 14 years old. JOHNSTON stated they talked on the chat site once, then exchanged numbers and chatted on Kik. He doesn't remember either of their Kik usernames. JOHNSTON stated he used a Samsung Galaxy phone to communicate with the Victim.

17. JOHNSTON stated they have been chatting and texting for approximately two months and exchanged "love and support" messages. JOHNSTON stated he loved the victim. Asked if this was in a romantic way, JOHNSTON responded in the affirmative and then said "in every way." JOHNSTON stated he knew he loved her within a few days.

18. JOHNSTON stated he went up to visit her on Monday October 6th (2014), flying on Southwest Airlines from Oakland to Portland. He then rented a car and met the Victim while she was on her lunch break from school, then again after school. JOHNSTON stated they hung out and talked and volunteered "we didn't have sex or anything." JOHNSTON stated they hung out by the school and snuggled, kissed and made out. JOHNSTON stated that the Victim attends Sprague High School and is in the ninth (9th) grade.

19. JOHNSTON mentioned their communicating initially on "ooVoo"³ which he likened to Skype and that he had met her on Omegle. JOHNSTON stated they parted ways at approximately 1600 and he flew back to Oakland.

20. JOHNSTON and the Victim have continued to talk every day since he returned from Portland. JOHNSTON stated that the Victim told him that something had happened last week and the Victim stated she couldn't be there anymore. The victim asked if he would come get her. JOHNSTON stated he would and then went to Oregon with the intention of getting her. JOHNSTON stated he didn't know whose idea it was for her to come back, but if it was hers it was "definitely something I agreed to." JOHNSTON stated that he "maybe" had intentions of having sex with the Victim. Once they got to Martinez, they talked for a long time, then went to bed. Asked why the Victim was sleeping in his room, JOHNSTON responded "she just was" and that it was nice to fall sleep holding each other.

21. JOHNSTON was then asked again about what happened when he met with the Victim in Oregon and if anything else had happened. JOHNSTON responded "Not that I remember." JOHNSTON was then advised that they had spoken with the Victim and had got a different story. At that time, JOHNSTON admitted he and the Victim had had oral sex. JOHNSTON stated that the oral sex had taken place in his car when he met up with the Victim after school. He said it lasted approximately five minutes in the back of the rental car. JOHNSTON stated his penis was erect and the Victim used her hands on

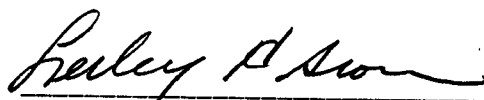
³ ooVoo is a video chat and instant messaging client developed by ooVoo LLC for Microsoft Windows, Windows Phone, Mac OS X, Android, iOS and Facebook. It was released in 2007, and is similar in some respects to Microsoft's Skype.

his penis. JOHNSTON said he ejaculated and maybe some of it wound up in her mouth as she was "down there" at the time.

V. CONCLUSION

22. Based on the aforementioned facts and information, there is probable cause to believe that on October 6, 2014, in the Northern District of California and others, JOHNSTON travelled from Martinez, California to Salem, Oregon, with intent to engage in illicit sexual conduct, in violation of Title 18, United States Code, Section 2423(b).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

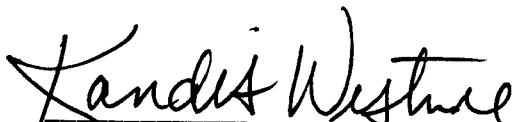


Lesley H. Brown, Special Agent
U.S. Department of Homeland Security
Immigration and Customs Enforcement
Homeland Security Investigations

Subscribed and sworn before me on:

10/16/14

Date



HON. KANDIS WESTMORE
U.S. MAGISTRATE JUDGE